

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MACEY E. TURLEY, JR.,

Plaintiff,

v.

LOPEZ, *et al.*,

Defendants.

Case No. 1:23-cv-00100-JLT-BAM (PC)

ORDER GRANTING DEFENDANT LOPEZ'S EX PARTE REQUEST FOR EXTENSION OF TIME TO FILE WAIVER OF SERVICE OF PROCESS AND RESPONSIVE PLEADING

(ECF No. 33)

Defendant Lopez's Waiver of Service of Process and Response Pleading Due: February 15, 2024

Plaintiff Macey E. Turley, Jr. ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. This action proceeds on Plaintiff's second amended complaint against Defendants Coyle and Lopez for deliberate indifference to medical needs in violation of the Eighth Amendment.

Pursuant to the Court's October 10, 2023, order finding service of the second amended complaint appropriate and directing electronic service, Defendants' answers or other responsive pleadings were due on or before January 16, 2024. (See ECF No. 26.) Defendant Coyle filed an executed waiver of service of process on December 18, 2023. (ECF No. 30.) Following an extension of time, Defendant Lopez's waiver of service of process is due on or before January 17, 2024. (ECF No. 31.)

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1 On January 16, 2024, Defendant Coyle filed an answer. (ECF No. 32.) By special
2 appearance, counsel from the Attorney General’s Office (“AGO”) filed an *ex parte* request for an
3 extension of time for Defendant Lopez to file a waiver of service of process and responsive
4 pleading. (ECF No. 33.) Plaintiff has not had the opportunity to respond to the motion, but the
5 Court finds a response unnecessary. The motion is deemed submitted. Local Rule 203(l).

6 In support of the motion, counsel states that despite counsel's diligent efforts, an extension
7 of time is justified to permit the AGO to determine if it can represent Defendant Lopez and
8 evaluate the allegations in the second amended complaint to prepare a responsive pleading. (ECF
9 No. 33.) Defense counsel anticipates he can complete the determination, file a waiver, and
10 prepare a responsive pleading within the next 30 days. (*Id.*)

11 The Court, having considered the request, finds good cause to grant the requested
12 extension of time. Fed. R. Civ. P. 6(b). The Court further finds that Plaintiff will not be
13 prejudiced by the brief extension requested here.

14 || Accordingly, it is HEREBY ORDERED as follows:

15 1. Defendant Lopez's *ex parte* request for extension of time to file waiver of service of
16 process and responsive pleading, (ECF No. 33), is GRANTED; and
17 2. Defendant Lopez shall file and serve a waiver of service of process and a response to the
18 second amended complaint on or before **February 15, 2024**.

IT IS SO ORDERED.

Dated: **January 16, 2024**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE